

# ASHEVILLE POLICE DEPARTMENT POLICY MANUAL

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## INTRODUCTION

The Asheville Police Department is committed to preserving and protecting all lives and to upholding our community's values while inspiring mutual respect and public trust. Policing, at times, requires that officers may need to exercise control of a violent or resisting subject or a subject experiencing a mental or behavioral crisis. This policy provides officers with clear guidelines for the use of force in the performance of their official duties and seeks to ensure that these guidelines are consistently implemented.

## POLICY STATEMENT

It is the policy of the Asheville Police Department (APD) that officers use only the force that is, under the circumstances, objectively reasonable, necessary, and proportional to the threat or resistance of a subject. Officers must perform their duties professionally, with respect for others, and in a manner which endeavors to protect and preserve life.

## DEFINITIONS

Choke Hold: a physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation. This does not include vascular neck restraints.

De-escalation Techniques: techniques that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of gaining voluntary compliance.

Lethal Force: any force that creates a substantial risk of causing death or serious bodily injury.

Less Lethal Force: force employed that is neither likely nor intended to cause death or serious bodily injury.

Objectively Reasonable: the reasonableness of a particular use of force based on the totality of the circumstances known by an officer at the time of the use of force. Circumstances may include, but are not limited to: the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community.

Physical Force: any physical strike, instrumental contact with a person or any significant physical contact that restricts movement of a person. This term does not include escorting or handcuffing a person with no or minimal resistance.

Proportional Force: application of force which reflects the circumstances, including the presence of imminent danger to officers or others. Proportional force does not require officers to use the same type or amount of force as the subject presents.

Serious Physical Injury: an injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long term loss or impairment of the functioning of any body part or organ.

## RULES AND PROCEDURES

### 402.1 DE-ESCALATION

- A. Prior to using force, when safe and without compromising law enforcement objectives, officers will use de-escalation techniques to attempt to slow down and/or stabilize a situation to allow for more time, options, and resources for incident resolution. De-escalation techniques may include, but are not limited to:
1. Mitigating the immediacy of the threat by containing or reducing exposure by moving to a safer position;
  2. Establishing communication from a safe position;
  3. Use of verbal techniques to promote rational decision making; and/or
  4. Avoidance of physical confrontation, unless immediately necessary.

- B. When safe and feasible, officers should consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors such as, but not limited to: a medical condition, mental impairment, developmental disability, language barrier, influence of drug or alcohol use, perceived age, and/or a behavioral crisis.

#### **402.2 USE OF FORCE**

- A. N.C. Gen. Stat. § 15A-401 grants law enforcement officers the right to use force in achieving lawful objectives. All officers should clearly understand that the policy of this department is more restrictive than the referenced statute.
- B. Officers must only use the amount of force that is **objectively reasonable, necessary under the circumstances, and proportional to the threat or resistance of a subject**. Any use of force that is **objectively unreasonable or unnecessary** may subject officers to disciplinary action, up to and including dismissal, as well as civil and criminal liability. [1.3.1]
- C. Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable or necessary under the circumstances must, when in a position to do so, safely intercede to prevent the use of such excessive force. Officers must promptly report these observations to a supervisor.

#### **402.3 USE OF LETHAL FORCE**

- A. Law enforcement officers are authorized to use lethal force upon another person when it appears to be reasonably necessary to: [1.3.2]
  - 1. Protect the officer or another person from what is reasonably believed to be the use or imminent use of lethal physical force.
  - 2. To prevent the escape from custody of a person the officer reasonably believes is attempting to escape by means of a deadly weapon, or who by his/her conduct or any other means indicates that he/she presents an imminent threat of death or serious physical injury to others unless apprehended without delay.
- B. Prior to the use of lethal force, where safe and feasible, officers will identify themselves as a law enforcement officer and order the subject to stop the activity which authorizes the use of lethal force.

#### **402.4 RESTRICTIONS ON THE USE OF LETHAL FORCE**

- A. Officers will not use lethal force to subdue persons whose actions are a threat only to property or against persons whose conduct is a threat only to themselves.
- B. Officers will not fire any weapon from or at a moving vehicle except to counter an imminent threat of death or serious physical injury to the officer or another person and no

other means are available at that time to avoid or eliminate the danger. Officers will consider the following factors in determining whether shooting at or from a moving vehicle is justified:

1. An occupant of the vehicle is using or threatening to use lethal force by a means other than the vehicle.
  2. The vehicle is being operated in a manner deliberately intended to strike a person.
  3. All other reasonable means of defense (including taking cover or moving out of the path of the vehicle or other evasive action) have been exhausted, are not practical or are not present.
- C. Warning shots are prohibited. [1.3.3]
- D. Officers will avoid the use of the following unless lethal force is reasonably believed to be necessary within the guidelines and in compliance with law and this directive:
1. Choke holds; and/or
  2. Strikes with an instrument other than hands or fists above a person's shoulders.
- E. Where lethal force is not authorized, officers may use only that level of force that is objectively reasonable to bring an incident under control and according to guidelines in [Policy 403 – Less Lethal Weapons](#). [1.3.4]
- F. Officers are permitted to euthanize a seriously injured or diseased animal with a firearm as a compassionate measure with the prior approval of a supervisor.

#### **402.5 RENDERING AID**

- A. Following any use of force, when safe to do so officers will evaluate the subject for injuries and render appropriate medical aid within their training as soon as practical. [1.3.5]
- B. Officers must immediately request an ambulance, paramedics or other appropriate medical personnel for all subjects who show signs of injury or complain of injury following any use of force. [1.3.5]

#### **402.6 REPORTING REQUIREMENTS**

- A. Any department member involved in a use of force or injured prisoner incident must notify a supervisor as soon as practical.
- B. A department [Blue Team](#) report must be completed for the following:
1. Whenever a [department member's](#) actions results in, or is alleged to have resulted in, the injury or death of another person. [1.3.6 b]

2. Whenever a department member applies force through the use of a lethal or less lethal weapon. [1.3.6 c]
  3. Whenever a department member applies physical force as defined in this policy. [1.3.6 d]
  4. Whenever an officer discharges a firearm (on-duty, off-duty, or engaged in secondary employment) other than for authorized training or recreational purposes. [1.3.6 a]
- C. Officers may be required to submit a Blue Team report at the direction of a supervisor.
- D. A supervisor will respond to the scene of all reportable incidents involving a use of force to conduct a preliminary investigation and collect supplemental documentation to be attached to the associated Blue Team report. This includes, but may not be limited to:
1. Obtaining or attempting to obtain a statement from the subject of the force or injury and all witnesses at the scene; and
  2. When applicable, photographing all areas of contact located on the subject to document the injuries or lack of injuries.
- E. Notification, reporting, and review procedures for Blue Team reports are specifically addressed in [SOP 3002 - Blue Team Reports](#). All reported use of force incidents will be reviewed by the employee's designated chain of command and the Professional Standards Section. [1.3.7]
- F. Annually, the Professional Standards Section will conduct an analysis of all Blue Team reports related to uses of force to ensure department practices are non-discriminatory and reveal any necessary training or policy modifications. [1.3.13]

#### 402.7 LETHAL FORCE & SERIOUS INJURY INCIDENT RESPONSE

- A. The Chief of Police or designee will request the NC State Bureau of Investigation (SBI) to investigate any incident where an APD officer is involved in a use of force that results in death or serious physical injury of any person.
- B. Any officer whose actions or use of force results in serious physical injury or death to another person will be placed on administrative leave/duty by the Chief of Police or designee pending an investigation of the incident. [1.3.8]
  1. Following any investigation(s), the officer may not return to any assignment that requires the carrying of a firearm without a written statement from Employee Assistance Network (EAN) declaring the officer's ability to do so.

- C. Any officer whose actions or use of force results in the death of another person must attend a preliminary counseling session coordinated with the EAN. Officers whose actions or use of force results in serious physical injury to another person will attend such sessions as determined by the Chief of Police or as requested by the officer. Officers must attend all subsequent counseling sessions as recommended by the EAN.

#### 402.8 TRAINING

- A. All department members approved to carry a department-authorized lethal or less lethal weapon must demonstrate proficiency with the weapon and be issued copies of, and instructed in, the department's use of force policies and de-escalation techniques before carrying such a weapon. [1.3.10] [1.3.12]
- B. All officers will receive annual in-service training on the department's use of force policies and de-escalation techniques. [1.3.11]
- C. All weapons proficiency training must be monitored by a certified weapons instructor. Firearms proficiency requirements are outlined in [Policy 1080 – Firearm Qualification](#). [1.3.11 a]

BY ORDER OF:



Tammy Hooper  
Chief of Police